

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	3:16-cr-00051-BR
v.)	
)	
AMMON BUNDY, et al.,)	ORDER
)	
Defendants.)	

JONES, District Judge,

This matter is before the court on defendant Ryan Bundy's Motion for Protective Order [# 780] which defendant Ammon Bundy joins. On July 11, 2016, I heard argument from both the moving defendants and their respective counsel and standby counsel. At my request, Multnomah County Counsel appeared and filed a response on behalf of the Multnomah County Sheriff's Office (MCSO), which administers the facilities where the defendants are held on pretrial detention. The federal government takes no position on the present motion. I have also considered the transcript of the hearing on defendants' motion to continue the trial date, which Judge Brown heard on July 6, 2016.

In the present motion and in the motion to continue the trial, these defendants argue that the conditions of their pretrial detention unlawfully impede their ability to adequately prepare a defense. In rough summary, defendants object to the frequent unavailability of phone lines at the jails, the

close monitoring of telephone calls by jail guards, the inability to review discovery electronically, the lack of access to computers for research and drafting, and the “keep separate” jail rules that prevent codefendants from meeting to communicate about their joint defense.

Defendants first raised these issues on May 24, 2016, in a Joint Status Report Regarding Jail Conditions [# 601]. To address these concerns, I directed the Marshal Service to make extraordinary accommodations for this unique case to permit unmonitored contact visits between these defendants and their legal counsel or standby counsel in the secure area of the federal courthouse and to provide internet and cell phone access and a means to review discovery electronically. This arrangement has been and remains available to the moving defendants and I find that it cures any deficiencies in the conditions of their pretrial detention in the MCSO facilities.

With respect to the present motion, Ryan Bundy seeks a protective order prohibiting MCSO from recording outgoing calls or disclosing such recordings to other law enforcement agencies, from disclosing to the prosecution the names of those he meets with or communicates with, and from disclosing the dates of such communications. In addition, he seeks an order permitting him to designate lay persons to be legal counsel for the purpose of unmonitored telephone communications and privileged legal mail and permitting him to have unmonitored meetings with any person he designates as an advisor, expert, or potential witness. He also requests an order requiring the federal prosecutors to provide him with all recordings or reports they have received relating to his communications while in pretrial detention.

I am satisfied that defendants have failed to show that any of the MCSO jail regulations or policies impinge their constitutional rights or entitle them to the protective order they seek. *Turner*

v. Safley, 482 U.S. 78 (1987). To further ensure that they are fully able to prepare a joint defense and have unfettered communication with legal counsel, I order as follows:

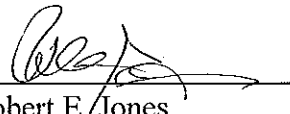
MCSO is directed to house defendants Ryan Bundy and Ammon Bundy in the same facility at Multnomah County Detention Center and permit them to communicate regarding their joint defense.

MCSO is further directed to provide for defendants Ryan Bundy and Ammon Bundy to make privileged, unmonitored, unrecorded outgoing calls to their legal counsel or standby legal counsel. MCSO personnel are prohibited from listening to such privileged calls and barred from commenting on or disclosing to any other person any part of such privileged conversations that is overheard inadvertently.

In all other respects, the Motion for Protective Order [#780] is DENIED.

IT IS SO ORDERED.

DATED this 12th day of July, 2016.


Robert E. Jones
United States District Judge